

**R590. Insurance, Administration.**

**R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans.**

**R590-199-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-201(3) and 31A-4-115(8).

**R590-199-2. Purpose.**

This rule is drafted for the purposes of maintaining a health benefit plan market that is stable, fair, and efficient for individuals and small employers and ensuring and maintaining increased access for individuals and small employers to health coverage. It promotes an orderly process by which an insurer can elect to nonrenew health benefit plan coverages without unreasonable disruption to the health insurance market.

**R590-199-3. Applicability and Scope.**

This rule applies to accident and health insurers.

**R590-199-4. Definitions.**

(1) The definitions in Sections 31A-1-301 and 31A-30-103 apply to this rule.

(2) "Annual Renewal Date" means the annual anniversary of the date ~~of~~ the policy or plan, under which health insurance benefits are provided, was initially issued.

**R590-199-5. Plan of Orderly Withdrawal.**

(1) A covered carrier and each affiliate of a covered carrier that elects to nonrenew coverage under a health benefit plan in Utah must file a plan of orderly withdrawal with the ~~[Utah insurance]~~ commissioner explaining the process of nonrenewal. The plan must be filed with the ~~[Utah insurance]~~ commissioner at the time advance notice is given under Subsection 31A-30-107(3)(e) and 31A-30-107.1(3)(e) and must be accompanied by a \$50,000 withdrawal fee or proof of placement or assumption of all business to another carrier. This fee is to be made ~~[out]~~ payable to the Utah ~~[Comprehensive Health Insurance Pool]~~ Insurance Department. The plan of orderly withdrawal is to include the following information:

(a) name and telephone number of company representative to contact regarding the nonrenewal;

(b) list of all policy forms affected by the withdrawal;

(c) number of group or individual policies, or both, that are currently in force;

(d) number of covered lives, include insured, spouse and dependents, under individual health benefit plan policies;

(e) number of covered lives, include insured, spouse and dependents, under small employer health benefit plans;

(f) number of COBRA or ~~[state extension]~~ Utah mini-COBRA policies and the number of covered lives for each;

(g) ~~[copy of conversion plan and rates that will be offered in accordance with Section 31A-22-723,~~

~~—(h)—~~ copy of notice required by Subsections 31A-30-107(3)(e) or 31A-30-107.1(3)(e) ~~[. Such notice must inform the insured of their~~

~~portability rights and responsibilities];~~

(~~[i]~~h) service or coverage areas within the state, which indicates withdrawal areas;

(~~[j]~~i) list of all types of all insurance coverages offered in Utah by line of business and the premium volume generated in the prior year;

(~~[k]~~j) any reinsurance ceding arrangements relating to the health benefit plans being nonrenewed;

~~[(l) information relating to any waiver provided under Section 31A-30-104(5);]~~

(~~[m]~~k) list of all affiliated carriers as described in Section 31A-30-104(4);

(~~[n]~~l) certification of compliance executed by the president of the company stating that the withdrawing company is in compliance with 31A-30, as applicable, at the time the election to withdraw is filed;

~~[(o) certification executed by the president of the company that its individual enrollment cap has been exceeded, if applicable;]~~

(~~[p]~~m) loss ratios for each form issued in Utah ~~[and the methodology by which the loss ratio was]~~ calculated in compliance with PPACA standards, including a description of all assumptions made;

(~~[q]~~n) certified actuarial analysis from a qualified actuary of the impact that the withdrawal or nonrenewal will have on the individual and small employer market in Utah;

~~[(r) certified actuarial analysis from a qualified actuary of the impact that withdrawal or nonrenewal will have on the Utah Comprehensive Health Insurance Pool;]~~

(~~[s]~~o) actuarial certification from a qualified actuary certifying to the level of liability related to the policies;

~~[(t) detailed explanation of all efforts made to place business that is to be nonrenewed with other carriers;]~~

(~~[u]~~p) any plans to nonrenew any other line of business in Utah in the future;

(~~[v]~~q) copy of the certificate of authority of the company and all affiliates involved in the withdrawal; and

(~~[w]~~r) demonstrate that all liabilities relating to the policies that will be nonrenewed are fully satisfied or adequately reserved.

(2) Submit two copies of the plan of orderly withdrawal, one copy to be filed and a second set to be returned to you, and a self-addressed return envelope.

(3) If both the written notice and a complete plan of orderly withdrawal are not received, the partial submission will be returned and not considered to have been received by the department.

(4) Availability of coverage through a special enrollment period or a PPACA exchange is not considered assumption or placement with another carrier.

#### **R590-199-6. Implementation of Withdrawal.**

(1) A covered carrier and all its affiliates that elect to withdraw from the market or to nonrenew a health benefit plan issued to covered insureds must provide written notice of the decision to do so to all affected insureds and to the insurance commissioner in

each state in which an affected insured resides.

(2) Each insured must be given at least 180-days notice prior to the nonrenewal date.

(3) The ~~[Utah insurance]~~ commissioner is to receive written notice of the decision to withdraw or nonrenew any health benefit plan at least three working days prior to the mailing of the notice to affected covered insureds.

(4) The carrier must include with the notice to the ~~[Utah insurance]~~ commissioner its certificate of authority which will be modified to prohibit the writing of business which the carrier has elected to nonrenew or withdraw from the market.

(5) The carrier is prohibited from writing new business in the individual and small employer health benefit plan market for a period of five-years ~~[from the date of notice to the Utah insurance commissioner]~~ beginning on the date of discontinuation of the last coverage not renewed.

(6) ~~[The]~~ A covered carrier's affiliates, as defined in Subsection 31A-30-104(4), may also be required to withdraw as determined by the commissioner.

(7) Each plan submitted to the commissioner must provide that the nonrenewal of any coverage under a health benefit plan will occur on the annual renewal date of each policy or plan. Nonrenewal ~~[can only]~~ shall occur on the annual renewal date.

#### **R590-199-7. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: health insurance**

**Date of Enactment or Last Substantive Amendment:** ~~[October 3, 2012]~~ **2014**

**Notice of Continuation:** May 20, 2010

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-4-115; 31A-30-106; 31A-30-107